

Division 3. Air Resources Board

Chapter 12. Halogenated Refrigerants

§ 2500. Phase-Out of CFC Refrigerants in New Motor Vehicle Air Conditioning Systems for Model Years 1993 and Subsequent.

(a) Applicability

This section is applicable to all new 1993 and subsequent model year motor vehicles which are sold, supplied, or offered for sale in California on or after January 1, 1993, and which are either (1) certified pursuant to article 2 (commencing with section 1950) or article 7 (commencing with section 2047) of Chapter 1, Division 3, Title 13, California Code of Regulations; or (2) federally certified vehicles which are sold in California pursuant to Health and Safety Code Section 43102; or (3) heavy-duty diesel-powered motor vehicles, with the exception of such vehicles which are classified as "off-road vehicles" as defined in section 2421(a)(19) of Chapter 11, Division 3, Title 13, California Code of Regulations.

(b) Definitions

The definitions of this section supplement and are governed by the definitions set forth in Chapter 2 (commencing with section 39010), Part 1, Division 26 of the Health and Safety Code. The following definitions shall also govern the provisions of this section:

(1) "Authorized dealership" means any dealership to which a manufacturer supplies new motor vehicles for the purpose of reselling such vehicles to the ultimate purchaser.

(2) "Authorized supplier" means any person supplying, to a manufacturer's authorized dealership, air conditioning systems which may be installed in a new motor vehicle under warranty from the manufacturer.

(3) "Calendar quarter" means any of those three-month periods of time which start on the first days of January, April, July, and October.

(4) "CFC refrigerants" means any of the compounds commonly known as Chlorofluorocarbon-11 (CFC-11 or trichlorofluoromethane) or Chlorofluorocarbon-12 (CFC-12 or dichlorodifluoromethane).

(5) "Dealership" shall have the same meaning as the term "dealer", as defined in section 285 of the Vehicle Code.

(6) "Executive Officer" means the Executive Officer of the Air Resources Board, or his or her delegate.

(7) "Factory-installed" means installed at a manufacturer's motor vehicle production facility or port-of-entry facility.

(8) "Incomplete vehicle" means any vehicle which does not have the primary load carrying device or container attached by the original manufacturer.

(9) "Manufacturer" means any person engaged in the production of new motor vehicles from raw materials or new basic components, in order to sell such vehicles for money or other thing of value. Except as noted below, for a vehicle which is produced by one manufacturer and sold to a dealership or the ultimate purchaser by another manufacturer, the manufacturer for whom the requirements of this section are applicable shall be the manufacturer who sells, supplies, or offers the vehicle for sale to the dealership or the ultimate purchaser.

For incomplete vehicles only, the manufacturer for whom the requirements of this section are applicable shall be the initial manufacturer who predetermines the type of air conditioning system, if the air conditioning system that is ultimately installed is the same as the predetermined system. If the air conditioning system that is ultimately installed is not the same as the predetermined system, the manufacturer for whom the requirements of this section are applicable shall be the manufacturer who ultimately installs the air conditioning system. For the purposes of this section, "predetermine" means to either (1) manufacture or physically configure the vehicle in such a way, or (2) partially install the compressor, condenser, or other air conditioning components in such a way, that the specific configuration or installation is compatible with an air conditioning system that uses only one particular type of refrigerant.

(10) "Motor vehicle," as used in this section 2500, means those categories of motor vehicles that are specified in subsection (a).

(11) "Port-of-entry facility" means a facility at which a manufacturer's vehicles first arrive in the United States, and at which vehicles originally produced without vehicle air-conditioning systems may have such systems installed.

(12) "Small-volume manufacturer" means any manufacturer which sells less than 3000 new motor vehicles in California during the applicable model-year.

(13) "Vehicle air-conditioner" means any mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle. "Vehicle air-conditioning system" has the same meaning as "vehicle air-conditioner."

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(c) Percentage of Air-Conditioner-Equipped New Motor Vehicles Which May Use CFC Refrigerants for Vehicle Air Conditioning.

(1) Unless an applicable exemption has been granted pursuant to subsection (e), each manufacturer's percentage of air-conditioner equipped new motor vehicles that are sold, supplied, or offered for sale in California, and use or contain any CFC refrigerant for air-conditioning, shall not exceed the following percentages for the specified model years during the specified time periods:

<i>Model Year</i>	<i>Time Period</i>	<i>Maximum Vehicle Percentage</i>
1993 and 1994	January 1, 1993- December 31, 1993	90*
1994 and 1995	January 1, 1994- December 31, 1994	75*
1995	September 1, 1994- December 31, 1994	10

*These requirements shall not apply to small volume manufacturers.

Compliance with the "maximum vehicle percentage" requirements shall be determined as set forth in subsections (d)(3) and (d)(4).

(2) Effective January 1, 1995, no person shall sell, supply, or offer for sale in California any new 1995 or later model-year motor vehicle using any CFC refrigerant for vehicle air conditioning.

(3) Unless an applicable exemption has been granted pursuant to subsection (e), any person who fails to meet the requirements of subsections (c)(1) or (c)(2) shall be subject to the civil penalties specified in Health and Safety Code section 44474. For the purposes of Health and Safety Code section 44474:

(A) Any cause of action against a manufacturer under subsection (c) shall be deemed to accrue on the date(s) when the records required pursuant to subsection (d)(4) are submitted by a manufacturer to the Executive Officer, and

(B) A separate "incident" of violation shall be deemed to have occurred: 1. for each new motor vehicle which is sold, supplied, or offered for sale in California in excess of the allowable percentages specified in subsection (c)(1); or 2. for each new motor vehicle which is sold, supplied, or offered for sale in violation of subsection (c)(2); or 3. for each day in which a manufacturer fails to submit any required report by the time deadlines specified in subsection (d).

(d) Reporting Requirements and Compliance Determination

(1) No later than 30 days prior to the start of each calendar year, each manufacturer shall submit to the Executive Officer a good faith statement describing whether, during the following calendar year, compliance with the phase-out percentages specified in subsection (c)(1) will be achieved, or whether an exemption will be applied for.

(2) Commencing with the calendar quarter which begins on January 1, 1993, each manufacturer shall submit to the Executive Officer a quarterly report within 45 days of the end of each calendar quarter. Each quarterly report shall list the number and the model year of all air-conditioned-equipped new motor vehicles produced and delivered for sale in California by the manufacturer during the immediately preceding quarterly period, and the number and percentages of these vehicles using factory-installed CFC and non-CFC vehicle air-conditioning systems. For 1995 model-year vehicles only, the quarterly report for the period October-December 1994 shall also include the above information for the period September-December 1994.

(3) Commencing with the 1993 calendar year, each manufacturer shall submit to the Executive Officer an annual report within 45 days of the end of each calendar year. Each annual report shall list the number and model year of all air-conditioner-equipped new motor vehicles produced and delivered for sale in California by the manufacturer during the immediately preceding calendar year. Each annual report shall also include the number and percentage of these vehicles using factory-installed CFC air-conditioning systems (Fa) and factory-installed non-CFC air-conditioning systems (Fb). Each report shall also include the percentage of the manufacturer's total production of new motor vehicles produced and delivered for sale in California with factory-installed vehicle air-conditioning systems during the immediately preceding calendar year (CY1), and during each of the calendar years prior to the immediately preceding calendar year (CY2, CY3, and CY4).

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Provided that the quantity CY1 is greater than or equal to 0.95 times the average of CY2, CY3, and CY4, then (A) compliance with the "maximum vehicle percentage" requirements of subsection (c)(1) for each model year during the applicable time period shall be determined by comparison of Fa with the applicable "maximum vehicle percentage" requirements, and (B) the manufacturer shall not be subject to the provisions set forth in subsection (d)(4).

(4) If the quantity CY1 is less than 0.95 times the average of CY2, CY3, and CY4, the manufacturer shall supplement the information contained in the annual report within 60 days of submitting the report to the Executive Officer. The supplemental information shall detail the number and model year of new motor vehicles sold to the ultimate purchaser: (A) without air-conditioning, (B) with non-CFC manufacturer-warranted vehicle air-conditioner systems installed by the manufacturer's authorized dealerships, and (C) with CFC manufacturer-warranted vehicle air-conditioner systems installed by the manufacturer's authorized dealerships. The supplemental information shall then be used to determine the "actual percentage" of a manufacturer's air-conditioned-equipped new motor vehicles, sold during the applicable time periods, that use or contain CFC refrigerants. Compliance with the "maximum vehicle percentage" requirements of subsection (c)(1) shall be based on a comparison of this "actual percentage" with the applicable "maximum vehicle percentage" requirement.

(5) The reporting requirements of this subsection (d) shall cease to apply for any manufacturer that has submitted an annual report demonstrating that no new motor vehicles equipped with CFC- refrigerant air-conditioning systems were produced and delivered for sale by the manufacturer in California.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(2), small volume manufacturers shall not be required to (A) submit any quarterly reports for the time period from January 1, 1993, to August 31, 1994, or (B) submit annual reports for the 1993 or 1994 calendar years.

(e) Exemptions

(1) Any manufacturer who cannot comply with the requirements set forth in subsection (c) may apply in writing to the Executive Officer for an exemption. The exemption application form shall set forth:

- (A) the specific grounds upon which the exemption is sought;
- (B) the proposed date(s) by which compliance with the provisions of subsection (c) will be achieved; and
- (C) a plan reasonably detailing the method(s) by which compliance will be achieved.

(2) Within 90 days of receipt of an exemption application containing the information required in subsection (e)(1), the Executive Officer shall determine whether, under what conditions, and to what extent, an exemption from the requirements of subsection (c) is necessary and will be permitted.

(3) No exemption shall be granted unless all of the following findings are made:

(A) that, because alternatives to CFC refrigerants are not yet available or in sufficient supply, or because a manufacturer requires additional time to redesign and produce vehicle air conditioning systems, requiring compliance with subsection (c) would result in a severe economic hardship;

(B) that the compliance plan proposed by the manufacturer can reasonably be implemented and will achieve compliance as expeditiously as possible.

(4) The exemption order shall specify a final compliance date by which the requirements of subsection (c) will be achieved. Any exemption order may contain a condition which specifies increments of progress necessary to assure timely compliance, and such other conditions as the Executive Officer finds necessary to carry out the purposes of Health and Safety Code sections 44470-44474. No exemption shall allow an extension of more than two years for any of the time deadlines specified in subsection (c).

(5) An exemption shall cease to be effective upon failure of the party to whom the exemption was granted to substantially comply with any condition specified in the exemption order.

(6) The Executive Officer may review, and for good cause, modify or revoke an exemption as is necessary to assure that the purposes of Health and Safety Code Sections 44470-44474 are met. The Executive Office shall not revoke or modify an exemption without first affording the manufacturer an opportunity for a hearing in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1, Article 4 (commencing with section 60040), to determine if the exemption should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601 and 44473, Health and Safety Code. Reference: Sections 39002, 39003 and 44470-44474, Health and Safety Code; and Section 338(k), Code of Civil Procedure.

REFERENCE